

News Release



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U.S. Labor Department Sues Former Bakery Union and Successor Fiduciary For Abandoning Pittsburgh Welfare Plan

PITTSBURGH—The U.S. Department of Labor today sued Local 19 of the Bakery, Confectionery, Tobacco Workers and Grain Millers Union and the trustees of the ABC Local No. 12 Employer and Employee Life Benefit Fund in Pittsburgh, Pa., for abandoning the fund. The Department has also sued a former employee of the plan for unauthorized use of plan assets.

The department's lawsuit alleges that trustees Myron Rodzay, Agostino Corso, Randy Cellone and James Gallicic failed to perform their duties as plan fiduciaries under the Employee Retirement Income Security Act (ERISA) from 1999 to the present. The suit also alleges that employee Marilyn Constable has been illegally in control of plan assets without directions from the trustees and may have used plan money for her personal use.

The department contends that, as a result of their improper actions, the fiduciaries abandoned the fund. Presently, the fund now faces bills that are unpaid, beneficiary claims that are not processed, and money owed to the plan that is not being deposited. Plans become "orphan plans" when they are abandoned by all fiduciaries designated to manage and operate them and their assets.

The department's suit seeks court approval to appoint David M. Lipkin, of Metro Benefits, as the fund's independent fiduciary to replace the trustees who abandoned the fund. If appointed as independent fiduciary, Metro Benefits will have authority to manage the plan and distribute benefits to eligible beneficiaries. The department also is asking the court for the restoration of any losses incurred by the fund.

The fund provides death benefits to beneficiaries of members of the former Local 12 Bakery, Confectionery, Tobacco Workers and Grain Millers Union. Local 19 was charged as a successor fiduciary after its merger with Local 12 in March 2004.

"The law states that plans must be managed and operated by employers or plan fiduciaries," said Mabel Capolongo, director of the department's Philadelphia office of the Employee Benefits Security Administration. "Our case ensures that these workers and their families have someone with authority to transact plan business and distribute its assets to eligible participants."

In fiscal year 2003, EBSA achieved record monetary results of \$1.4 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can reach EBSA's Philadelphia regional office at (215) 861-5300 or through its toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

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(Chao v. Constable)
Civil Action No. 04-1002

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